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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,371	06/23/2003	Zakary J. Borg	2677.0022	1699

152 7590 11/08/2004

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EXAMINER

BUI, LUAN KIM

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 11/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,371

Applicant(s)

BORG, ZAKARY J. 

Examiner

Luan K Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 and 8-12 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Erickson (4,093,295) in view of Poupitch (2,997,169) or Finley et al. (5,443,298; hereinafter Finley'298). Erickson discloses in the embodiment of Figure 7 an integrally molded carrier for carrying multiple containers by their necks comprising a substantially planar web (36) having multiple nodes defining multiple annular supports (30-32) with each annular support having a flexible annular flange (33-35) provided with a plurality of radial slots (6, 9 as in Figure 1) for releasably engaging the necks of the containers. Erickson further discloses the centers of the annular supports are substantially aligned along a common axis and a generally U-shaped handle (37) flexibly attached to the web at four points with each point is substantially equidistant from the centers of the multiple annular supports. Erickson also discloses the other claimed limitations except for the handle being flexibly attached to the web at two points that are substantially equidistant from the centers of the multiple annular supports. Poupitch shows a carrier (20g) for carrying multiple containers comprising a substantially planar web having multiple annular supports (22g) for engaging the containers and a generally U-shaped handle (78-82) attached to the web at two points that are substantially equidistant from the centers of the multiple annular supports. Finley'298 suggests a carrier (10) for carrying multiple containers comprising a substantially planar web having multiple annular supports (30, 32, 34) for engaging

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the containers and a generally U-shaped handle (22) attached to the web at two points that are substantially equidistant from the centers of the multiple annular supports. It would have been obvious to one having ordinary skill in the art in view of Poupitch or Finley'298 to modify the handle of Erickson so the handle is attached to the web at two points that are substantially equidistant from the centers of the multiple annular supports to facilitate carrying.

Response to Arguments

Applicant's arguments with respect to 8/30/2004 have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's arguments with respect to Erickson in the remarks are noted. They are not persuasive because in the instant office action and the previous office action, the Examiner only use one U-shaped handle 37 out of two to reject the claims of the instant patent application since it has been held that omission of an element and its function in a combination where the remaining elements perform the same functions as before involves only routine skill in the art. *In re Karlson*, 136 USPQ 184. Further, the term "substantially equidistant" as recited in the claim does not mean that it is equidistant but it can be closed to equidistant such as each point of the handle 37 attached to the web is substantially equidistant from the centers of the multiple annular supports.

Applicant's arguments with respect to Poupitch in the remarks are noted. They are not persuasive because Poupitch is relied only for the handle attached to the web at two points and

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each point is substantially equidistant from the centers of the multiple annular supports and nothing more because Erickson is clearly shown the handle is integrally molded as part of the carrier.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb
November 3, 2004

A handwritten signature in black ink, appearing to read 'Luan K. Bui', with a horizontal line underneath.

Luan K. Bui
Primary Examiner